



Attorney General Jon Bruning

News Release

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Contact: Shannon L. Kingery
402.471.2067
shannon.kingery@nebraska.gov

Bruning Details States' Arguments in U.S. Supreme Court Challenge to Federal Health Care Law

LINCOLN – Attorney General Bruning detailed the arguments to be presented in the 26-state legal challenge to the federal Patient Protection and Affordable Care Act (PPACA). Bruning will attend the nearly unprecedented 6 hours of oral argument over the course of three days beginning Monday, March 26, 2012.

“The Court’s decision may be the most important of our generation,” said Bruning. “I’m proud to stand with my colleagues to defend our nation’s foundational principles of individual liberty and state sovereignty guaranteed by our Constitution.”

Nebraskans can learn more information on the upcoming hearing in a series of podcasts available on the Attorney General’s Office official webpage at <http://www.ago.ne.gov/media/audio>.

Argument Calendar

The Court has allotted time to address four challenges to the Act during the three-day hearing:

Monday, March 26, 2012 10:00 a.m. EDT- The Anti-Injunction Act (1.5 hours)

The Anti-Injunction Act prevents parties from challenging in court the assessment and collection of federal taxes *before* those taxes are actually enforced against a taxpayer.

Arguments related to the Anti-Injunction Act will focus on whether the United States Supreme Court has jurisdiction to hear this case before any penalties for not complying with the health care law’s individual mandate have been assessed.

The states will argue the Court *does* have jurisdiction to hear the case as the federal government has fervently defended the penalty related to non-compliance and consistently held it is not a tax. The states will suggest that if the penalty is not considered a tax, the Anti-Injunction Act does not apply.

Tuesday, March 27, 2012 10:00 a.m. EDT – Individual Health Insurance Mandate (2 hours)

Under PPACA, for the first time in our nation's history, the federal government is forcing every American to make a purchase in the form of health insurance – or face a penalty.

The states will argue the mandate is unconstitutional because passing such a requirement oversteps the limitations of congressional authority. Additionally, they will argue if the mandate is upheld, the limits written into the Constitution restraining the federal government's power become meaningless.

Wednesday, March 28, 2012 10:00 a.m. EDT – Severability (1.5 hours)

Arguments on the topic of severability will address whether the health care reform law can be implemented without the individual mandate in place. The states will argue Congress did not include a severability provision when it passed PPACA in 2010. In addition, the states will argue the law was purposely constructed to be so complex that each provision is needed for the entire law to function, with the individual mandate at its foundation. Accordingly, the states will ask the Court to strike down the law in its entirety.

Wednesday, March 28, 2012 1:00 p.m. EDT – Medicaid (1 hour)

The healthcare law forces an expansion of state Medicaid systems by adding to the number of people who will qualify for state-paid health care coverage. As costs of Medicaid programs are calculated into state budgets, the financial strain related to additional mandates weigh most heavily on balanced budget states like Nebraska.

In August 2010, an independent actuarial firm predicted costs related to the expansion of Medicaid to the State of Nebraska will be between \$526 million and \$766 million. They added that in 2010, an estimated 11.6 percent of Nebraska residents, or approximately one in nine Nebraskans, were enrolled in Medicaid. The new provisions of the federal health care law will expand eligibility to 17.7 to 19.8 percent of residents, or approximately one in every five Nebraskans.

The states will argue the forced expansion of state Medicaid programs results in an unconstitutional and coercive take-over of the state program. In addition, the states will maintain that enacting PPACA's unfunded mandates will cripple state budgets.

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